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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,365	07/31/2003	Danielle M. Hafling	380-151 II	2151
1009	7590	12/23/2005	EXAMINER	
KING & SCHICKLI, PLLC 247 NORTH BROADWAY LEXINGTON, KY 40507			TILL, TERRENCE R	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 12/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/631,365	HAFLING ET AL.	
	Examiner	Art Unit	
	Terrence R. Till	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/30/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-18 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-18 of copending Application No. 10/631,386 in view of McCormick. Although the conflicting claims are not identical, they are not patentably distinct from each other because the only difference between the two applications is in the present application, applicant recites, inter alia, “an attachable and detachable filter holder”, whereas the ‘386 application recites “a filter holder”. The patent to McCormick ‘486 discloses an attachable and detachable filter holder 52 on said housing external to said dirt collection chamber and downstream from said outlet. It would have been obvious to a person skilled in the art at the time the invention was made to provide claim 1 of the ‘386 application

Art Unit: 1744

with an attachable and detachable filter holder in view of the teaching of McCormick in order to be able to easily remove and replace the filter when the filter is dirty.

This is a provisional obviousness-type double patenting rejection.

3. Claims 1-18 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-18 of copending Application No. 10/631,386. Although the conflicting claims are not identical, they are not patentably distinct from each other because the only difference between the two applications is in the present application, applicant recites, inter alia, “an attachable and detachable filter holder”, whereas the ‘386 application recites “a filter holder”. Since the ‘386 application more broadly encompasses both permanently fixed and detachable filter holders, the claims of the ‘386 application fully encompass the claimed subject matter of the present application.

4. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-6, 11-14 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. publication to Overvaag.

Art Unit: 1744

7. The publication to Overvaag discloses a dirt cup (figure 2) for a vacuum cleaner, comprising: a housing 12 defining a dirt collection chamber; an inlet 30 in said housing in fluid communication with said dirt collection chamber; a screened outlet 22 in said housing in fluid communication with said dirt collection chamber; and an attachable and detachable filter holder 24 on said housing external to said dirt collection chamber and downstream from said outlet. The dirt cup further including a pleated filter 56 in said filter holder that includes a support 58. The dirt cup also includes a top wall 15, a first sidewall and a bottom wall 14.

8. Claims 1-6, 11-14 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by McCormick '486.

9. The patent to McCormick discloses a "dirt cup" (figure 2) for a vacuum cleaner, comprising: a housing 16, 22, 36 defining a dirt collection chamber; an inlet (connected to 62) in said housing in fluid communication with said dirt collection chamber; an outlet 34 in said housing in fluid communication with said dirt collection chamber; and an attachable and detachable filter holder 52 on said housing external to said dirt collection chamber and downstream from said outlet. The dirt cup further including a pleated filter 50 (see figure 2) in said filter holder that includes a support and a pleated filter media. The dirt cup also includes a top wall 15, a first sidewall and a bottom wall 14. McCormick also is considered to disclose a screen-type pre-filter 44 across the outlet. It should be understood that the examiner is interpreting a screen in the broadest sense of a member that filters out particles from a fluid.

10. Claims 1-6, 11-14 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Himukai.

Art Unit: 1744

11. The patent to Himukai discloses a dirt cup 5 for a vacuum cleaner, comprising: a housing (also 5) defining a dirt collection chamber; an inlet 11 in said housing in fluid communication with said dirt collection chamber 32; an outlet (co-incident with 31) in said housing in fluid communication with said dirt collection chamber; and an attachable and detachable filter holder 19 on said housing external to said dirt collection chamber and downstream from said outlet. The dirt cup further including a pleated filter 22 in said filter holder that includes a support 21. The dirt cup also includes a top wall 15, a first sidewall and a bottom wall 14. Himukai also is considered to disclose a screen-type pre-filter 44 across the outlet. It should be understood that the examiner is interpreting a screen in the broadest sense of a member that filters out particles from a fluid.

Allowable Subject Matter

12. Dependent claims 7-10 and 15-18 are free of the prior art.

Conclusion

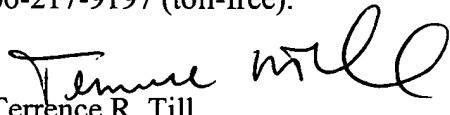
13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Dyson, King et al., Hultberg et al., European patent to Weidenbach and German patent to Huettmann all show additional filter assemblies located outside the main dust collection device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrence R. Till whose telephone number is (571) 272-1280. The examiner can normally be reached on Mon. through Thurs. and every other Friday.

Art Unit: 1744

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sun U. Kim can be reached on (571) 272-1142. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Terrence R. Till
Primary Examiner
Art Unit 1744

trt